SPEECH

OF

MR. SOULE, OF LOUISIANA,

ON HIS

SUBSTITUTE FOR THE CALIFORNIA BILL.

IN THE SENATE OF THE UNITED STATES, JUNE 24, 1850.

WASHINGTON:
PRINTED BY JOHN T. TOWERS.
1850.

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The Senate having under consideration the special order, being the bill to admit California as a State into the Union, to establish Territorial Governments for Utah and New Mexico, and making proposals to Texas for the establishment of her western and northern boundaries, Mr. SOULE said:

I rise, Mr. President, to state the reasons that will compel me to resist, and which, in my humble judgment, ought to induce the Senate to delay, the admission of California into the Union until she has executed a full and solemn relinquishment of all rights and pretensions to the public domain within her limits, and until she has restricted the area of her jurisdiction to suitable bounds and dimensions. When that is done, she may come at once and claim her rank among the sovereigns of this great Confederacy. I shall be the first to hail and welcome her; for I harbor no feeling, I entertain no designs that should alarm her friends or make them distrustful. But, while I am for throwing open to her every avenue through which she may surely and promptly reach us, I cannot consent to let her ride over the rights of the South and the best interests of the Republic. Sir, many as are the objections which I might urge against her being admitted at all, under present circumstances, I shall not overlook the exigences of her present condition, and the unjustifiable neglect through which they were brought about. I know, sir, that we have been unwarrantably delinquent in her case; and I am willing, on that account, that we should treat her claims with the highest degree of indulgence, that we should clear the way for her from all *removeable* encumbrances and obstructions, and that is what my substitute aims to effect. Had California been provided, as she ought to have been, with a government that would have enabled her to prescribe rules for the guidance of her citizens—to extend security to their lives—to insure protection to their property—we would not at this day be engaged in this disturbing and inauspicious discussion. Yet, sir, it should not be forgotten that when the attempt was made in the two last Congresses to organize a government for the newly acquired Territories, it was resisted by those who are now the most anxious for the immediate and unconditional admission of California—by those who had originally opposed her accession to the United States, and had voted against the treaty annexing her. It was resisted on the avowed ground that, as no hope could be indulged that the Executive sanction was to be obtained to any bill

imposing the unconstitutional proviso which a blind fanaticism sought to insert in it, it was better to leave the Territories exposed to all the inconveniences and dangers of anarchy, than to suffer the South to have the least chance of sharing in the profits of a conquest for which she had poured out so lavishly her treasures and her blood. It was the triumph of numercial force over law and justice, over reason and right, over the spirit and letter of the Constitution. And for what?—for what? Why, *Slavery* was to be excluded from these new acquisitions! It was an evil not to be suffered to go a foot beyond the limits within which it was then encircled.

Sir, much has been said about slavery; and I will not stop to consider here whether it be a blessing or an evil. War is an evil;—and your statute-book shows that there may be *just* and *necessary* wars. The Territories about which we are now debating were the immediate fruits of war; and I am yet to learn that those who denounced that war to the civilized world as a social and religious crime, have been deterred by any scruples from sending their stout and hardy sons to dig out from the accursed acquisitions the contaminated and corrupting treasures they contain. Government is an evil—a great and stupendous evil—a vast net of servitudes covering a handful of liberties; yet, sir, we owe it to the protective influence of government that we can live in peace, in comfort, and in happiness. If slavery be an evil, what right have Northerners to denounce and to cast it against the South as a reproach? Who implanted it where it now prevails? Who nourished the slave-plague from 1787 to 1808, and gathered its victims on these shores, and reaped the spoils of the adventures? Why, their very fathers and fathers' fathers! They, it was, who bequeathed it to us, and at all events, supplied fully three-fourths of the original materials out of which sprang the present stock. And, sir, among those who have engaged in the unholy crusade which has been raging for these fifteen years past against the South, how many are there who still dance on the silk carpets and look out from the gilt balconies that were paid for with the profits of the accursed trade! They enjoy remorselessly the unholy inheritance, and never think of atoning for its hellish origin *otherwise* than by their foul and ceaseless assaults against those whose only sin is to have made themselves the instruments and victims of their own fortunes.

How elastic is the conscience of man! He thunders out his anathemas against the vices and corruptions of the day, while he exults, with an insulting ostentation, over the displays of the very profits which he derives from them!

These Territories, now the object of so much debate, were stigmatized (if I recollect aright the language of the peace fanatics of the day) as the fruit of spoliation and theft. But now they insist upon having it all to themselves! Ah! but for slavery—slavery! Why, sir, it is as ancient as civilized man. It has pervaded the whole world, and carries along with it, through the passing centuries, the sanction of the highest names and of the most revered authority. It covers still now by far the largest portion of the inhabited globe, and, (I say it in deep sorrow,) under disguised names, even where liberty is said to prevail, constitutes the condition of nineteen-twentieths of the human race. It is the work of ages, which ages alone can remove. Those who denounce and calumniate it would certainly perform a nobler task if, instead of wast-

ing their energies in impotent strivings for an impracticable emancipation, they applied them to the propagation of those solemn truths and salutary doctrines that tend to mitigate its hardships, and might awaken their own minds to the mysterious callings which an All-wise Providence may hide under it.

But, sir, I am wandering from my subject, and I hasten to return to it. One of the objects which I have in view in presenting my substitute is to secure in the United States the right to the primary disposal of the public domain in California.

The third section of the bill reported by the Committee provides

That the State of California shall be admitted into the Union upon the *express condition* that the people of the said State, through their Legislature or otherwise, *shall never interfere with the primary disposal of the public lands within its limits, and shall pass no law and do no act whereby the title of the United States to, and right to dispose of, the same shall be impaired or questioned;* and that they shall never levy any tax or assessment of any description whatsoever upon the public domain of the United States, &c. &c.

When the bill was originally introduced into the Senate from the Committee on Territories, it was without such a provision. The experienced Senator from Alabama (Mr. KING) promptly noticed the omission, and strongly pressed upon the Senate the necessity there was of securing the public domain through a conventional ordinance from California, relinquishing all claim or title thereto prior to receiving her into the Union; without which, as he most ably contended, the whole of that domain would escheat to the State, and be wholly lost to the United States. The Senator from Kentucky (Mr. CLAY) expressed his decided concurrence in these views—urged upon the chairman of the committee, (Mr. DOUGLAS,) the necessity of providing against such a consequence; and I understood the distinguished Senator from Missouri, (Mr. BENTON,) the next day, as fully assenting that some such provision would be necessary to protect the public domain. The section which I have just referred to was the result of these expressions of opinion; and I believe that I express the opinion of the whole Senate in saying that, unless some effective provision is made to avert the consequence, the public domain will escheat to California the moment we part with the sovereignty and jurisdiction over it. All the writers on public law, the ablest jurists of ancient and modern times, agree that sovereignty is necessarily and inseparably connected with the right of soil to the territory over which it is exercised. So essential is this right that sovereigny cannot exist without it. (Vattel, 165, 112, 99.) Nor is it surprising at all that such should be the unanimous opinion of the Senate, since it seems to have been the unanimous opinion of both houses of Congress, in every Congress, for these forty years past, which has provided for the admission of new States into the Union, with an unappropriated public domain within their borders; for they have invariably exacted of these States such a relinquishment, and (with a single exception, I believe) made the execution of the ordinances of relinquishment a *condition precedent* to the admission of any new State. I do not regard the five States formed out of the Northwestern Territory as exceptions to the rule; for these precedent conditions rested upon them before they were States, by virtue of the ordinance of 1787; and every one of them, by special references in their several Constitu-

tions, expressly recognized the existing and binding validity of its provisions. That ordinance declared that

The following articles shall be considered as *articles* of *compact* between the original States and the people and *States* in the said Territory, *and forever remain unalterable, unless by common consent.*

And the fourth article of that ordinance or compact provided that—

"The Legislatures of these districts or *new States shall never interfere with the primary disposal of the soil by the United States in Congress assembled,* nor with *any regulation* Congress may find necessary for securing the title in such soil to the *bona fide* purchasers. *No tax shall be imposed on land the property of the United States," &c.*

Thus, too, it is seen that the Congress of the Confederation, before the adoption of the Federal Constitution, considered that a title to the public domain within the limits of a State was an incident and muniment of its sovereignty, and that the only mode of protecting it from such a destination was by putting in operation an ordinance of relinquishment *before she became a State. A fortiori*, then, when the Constitution took effect, with a clause expressly limiting the power of this Government to hold lands within the body of a State to the enumerated objects of "forts, arsenals, magazines, dock-yards, and other needful buildings"—nor even these without the consent of the Legislatures of the States in which they are situated—most clearly would the public lands have inured to the States where they were situate the very moment they were admitted into the Union, unless they had previously relinquished them, through the same organic power which formed their constitutions. I do not say that the State's relinquishment of title reinvested it in this Government, or that a State can confer on it powers which the Constitution withholds. Not at all. But I do maintain that the State thereby divests *herself* of it, deprives herself of all interest or motive to meddle with it, and leaves the United States free to dispose of the public lands as heretofore, conveying indefeasible titles to purchasers, because none can have better ones to divest them.

Now, if I may take it for granted that the Congress of the Confederation, the sages of the Constitution, and all preceding Congresses—that distinguished Senators here now—nay, that the whole Senate—think that when a State enters into the Union she thereby divests the United States of their title to the public domain within her limits, unless she *previously*, or *eo instante* with her admission, relinquishes all title or claim to the same, it is most important to the issue I am now approaching to determine the precise point of time at which such an effect of State sovereignty upon the public domain is wrought; in other words, the exact moment when this Government becomes divested of, and disqualified to hold the public domain, and a new State acquires it. But, though this is most important, it is, I apprehend, so entirely clear that none will deem it either debatable or doubtful. There cannot be two opinions about it. There is not a Senator here who will not concur with me that the United States will lose and California will acquire the public domain (if lost or acquired at all) at that precise moment when California shall be received as a sovereign State into the Union, supposing the bill to pass as it is. And as to what will be that precise moment, we must all equally agree about it. It must necessarily be that precise moment when the President shall affix his signature to the same. At that *in-*

stant every foot of the public domain within her limits is hers! At that *instant* her sovereignty and rights are as absolute and entire as those of any one of the original States of the Union! There can be no possible mistake about this. Look at the 1st section of the committee's bill. Here it is:

"SEC. 1. *Be it enacted, &c.* That the State of California *be,* and she is *hereby,* admitted into the Union upon an *equal footing* with the *original States, in all respects whatsoever,*" *&c.*

When the President's signature shall have made that section the law of the land, California will have acquired all the freedom and independence, all the rights, immunities, and exemptions, "in all respects whatsoever," which the *original* State of Massachusetts ever has enjoyed, enjoys now, or can enjoy. Did Massachusetts or any of the original States enter the Union clogged with any other condition whatever than that of fulfilling such obligations as the Constitution expressly defined, and imposed upon each and all of them alike? Was any one of them clogged with the condition that she should permit the Federal Government, at its own option, and for all time, to hold any quantity of public domain within her limits—with powers to exempt them from taxes, lease them in perpetuity, establish federal tenantries there, or for any other purposes than those enumerated in the Constitution, to wit: "forts, arsenals, magazines, dock-yards, and other needful buildings?" There is not a Senator here who will not put his emphatic negative upon such an assumption. There is not a Senator here who will not fully concede that when we shall have clogged California with such a condition, she will NOT be "admitted into the Union upon an *equal footing* with the original States, *in all respects whatsoever.*" There is not a Senator here who will not admit that this first section will speak forth an absolute untruth, unless California shall be admitted discharged of all conditions whatsoever. You must either purge the bill of the condition in the third section which destroys her *equality* with her co-States, or you must strike out the first section, which that condition, if valid, makes utterly untrue. But when you have stricken out that section, the matter will by no means be mended; for, whether you express it in words or not, you cannot admit California into the Union at all, *under the Constitution,* unless she is admitted upon "an *equal* footing with the original States, *in all respects whatsoever.*" If, then, you admit her at all, she will come in discharged and untramelled of unconstitutional conditions, in spite of you, and whether you will it or not. Time will show that this is inevitable.

But, apart from all this, is it not perceived that there is something surpassingly absurd in insisting upon the enforcement of a condition which we ourselves have made impossible of performance, and a mere nullity, by passing the first section of the bill? That section admits her into the Union at once. If it does, it brings with her a constitutional right to possess, enjoy, and hold forever all the public domain within her limits—and does more: for, at one and the same instant, it divests this Government of the same, and invests California with both the actual possession and the allodial title! These premises being true, what follows: Why, clearly, that you will have already effected and completed "the *primary disposal* of all the public lands within her limits." You will have parted with every acre of it. It is no longer

yours; it is absolutely *hers.* Can any thing, then, be more preposterous or impracticable than for you to forbid a sovereign State (as you attempt to do in the 3d section) "from interfering with the *primary disposal*" of what is confessedly her own, and which you yourselves have absolutely disposed of already? You destroy the condition in the very instant that you impose it; for you yourselves effect that very *primary disposal* of the lands before she is aware of your attempt to guard against her interfering with it!

But, sir, how is this a condition at all. A condition binds nobody, unless it is assented to, nor until it is assented to by the party on whom its performance devolves. In all grants, compacts, &c., there must be more than *one* party—a party who accepts, as well as a party who bestows. It is a perversion of language to call that a condition to which but *one* party is privy. It is a *proposition,* and nothing more, binding AFTER acceptance, but without effect *before.* Is there a Senator here who can persuade himself that California can be bound by any proposal you make to her, not only before she has accepted it, but before she has ever heard of it? If you admit her to-day, not less than six weeks must elapse before she can give her assent to it, or even know of it. And what happens in the mean time? Why, she is a State in the Union; and there having been no prior or coexisting relinquishment on her part to avert such a consequence, the public domain has become hers, and she is free to do with it as she pleases. You will receive her Senators upon this floor; her Representatives will be received upon the floor of the House; they will share in all the legislation of the country, and in all respects have the same powers, rights, privileges, and immunities that we have. When California knows of your proposal to her in the 3d section, she will know of all this; she will know that the lands are all hers, and that it is her OPTION to do with them as she thinks fit. *She* cannot believe otherwise; how can *we?* She may relinquish her claim if she will; but what if she will not? If any obligation rested upon her to make the relinquishment, how could it be enforced? You make it the condition of her admission into the Union; and if that condition is not performed, how can you change either the fact or the law of her being a State in the Union, and how is she to get out of it, if you should deny her so obvious and essential a right of sovereignty as that of peacefully seceding from this confederation of sovereignties? You will not admit that she could get out of the Union by her own act, and the whole Senate will deny the power of any or all of the departments to put her out against her consent. The public lands must, then, be saved by the judiciary, if saved at all. But how could it be done there, where law is the true and sole measure of right? How can you make the primary disposal of the domain yourselves, and then complain to a court of justice that California had interfered with your doing so, in the face of the physical impossibility that she had purposely broken a condition she had never heard of, and in the face of so controlling a fact as that you had disposed of it yourselves, before she knew that a promise was expected from her that she never would interfere with the primary disposal of it? How could it be expected that the Supreme Court would enforce a condition against a party which the party imposing it had annulled before the other party had come to a knowledge of its existence? How could it be expected

that it would reverse the judgments of more than thirty Congresses of the Union, that the admission of a State gave her the public domain within her borders, unless it were protected by her prior ordinance of relinquishment? And, above all, how could it be expected that that court would adjudge the United States to be the sovereign owners of public domain within the limits of a State, in defiance of the Constitution, which limits their power to hold them there to the enumerated objects of "forts, magazines," &c.?

But, even could we admit that the primary disposal by the United States of the public domain might not be cotemporaneous with the entrance of California into the Union, this 3d section would not rid us of the main obstacle in our way. It does not provide for any ordinance to be made by the State relinquishing all *claim* or *title* to the public domain. It contains nothing of the sort. Should such a title accrue to California, as all seem to admit, it is plain that there is not contained either in the section itself, or which it directs or contemplates to be done hereafter, any provision whatever which does or would *extinguish* that title. Giving it the largest latitude, and admitting it could avert consequences which must have ensued weeks, if not months, before it can come to the knowledge of the party it aims to bind, yet the most it could secure to the United States would be the forbearance on the part of California to interfere with "their *primary* disposal." But if we leave California with the constructive possession and actual title to the lands, what is there in the section which forbids her to interfere with them *thereafter?*

A similar section was contained in the act of Congress of June 15, 1836, admitting Arkansas into the Union. But, for the reasons which I have assigned, and for many others, it produced no legal effect whatsoever. And, what is more to the purpose, the very Congress which passed the act was so convinced of its inefficiency to protect the public domain, that immediately it entertained, and the eighth day thereafter, (June 23, 1836,) and long before Arkansas had knowledge of the first act, passed another act, offering large donations of land to Arkansas to induce her to pass an ordinance providing that the authorities of that State should "never interfere with the primary disposal of the soil," &c. I believe these terms were accepted, and the ordinance passed; but whether it was or not, the offer itself is conclusive of two things: the one, that, in the deliberate judgment of the same Congress which admitted Arkansas into the Union, *without such an ordinance*—Arkansas would not have parted with her right of *interference*, notwithstanding that the eighth section of the act admitting her, like the third section of this bill, specially declared that "the State of Arkansas is admitted into the Union upon the *express condition* that the people of the said State shall never interfere," &c.; and the other, that, in the deliberate judgment of the same Congress, Arkansas possessed the *option* to pass such an ordinance or not to pass it, to interfere or not to interfere with the primary disposal of the public domain, and that the eighth section which I have just quoted wrought no control whatsoever over her discretion, rights, or powers in these regards. And it needs no prophet to foretell that neither this Congress, nor California, nor the people of this Union, nor their judiciary, will ever attribute a higher or different effect to the third section of this bill than the Congress of 1836 attributed to the eighth section of the act admitting Arkansas into the Union.

Upon this branch of the subject I conclude confidently, and without the fear of refutation, and scarcely of denial, that if the admission of California into the Union, without any provision at all in reference to the public lands, would insure their entire loss to the United States, the provisions of the third section constitute no bar or obstacle whatever to avert from the Union so serious a consequence. I go further, and boldly defy the wit of man, the very genius of statesmanship, the sagacity of both Houses, to contrive a condition in this bill which can save these public lands to the United States, if California is to be admitted *now*, and if such a condition is only to be known to her and its performance provided for *hereafter!* In other words, her ordinance of relinquishment must precede her entrance into the Union, or the public domain within her limits will be forever lost to the United States, unless she voluntarily surrenders it. I repeat that every acre of the public domain, that every ounce of the precious metals, will be irretrievably lost to the United States, if she is admitted into the Union under the provisions of any bill which can be devised, unless her ordinance of relinquishment *precedes*, in point of time, the final consummation of the act. After the profoundest reflection I am capable of bestowing upon this deeply momentous measure, such is the thorough and absolute conviction resting upon my mind of what will be the deplorable and inevitable consequences of passing this bill! With such results before me, can it be expected that I would give it my support? Have I any instructions from my constituents, under which I could defend myself for surrendering to a single State, and without the semblance of a consideration, a fee-simple title to public domain ample enough in dimensions to cover the whole area of New England, with that of the Empire State of New York added to it, and embracing a mineral region with a depth of unexplored treasures ample enough to discharge the public debt of the world? Sir, is there a single constituency on this side of the Rocky Mountains who are anticipating such startling and blasting results from this bill, or who would assent to it if they did, or who would submit to it if they could help it? Should I vote for this bill, and should the bill pass, and should these consequences ensue, I would not dare to face my constituents, after sharing in an act of fatuity that would avert from them and their posterity these exhaustless sources of relief from all the fiscal burdens of the government, and for all time! Not a Senator here represents a constituency more considerate, liberal, or generous than mine; but there are things which they could neither endure, nor forget, nor forgive, and these are of them.

I am aware, sir, that to all this it may be replied that, even admitting that my objections to the third section should be deemed conclusive and unanswerable, yet that all of them have been anticipated and provided against by California herself, and through an instrument contemporaneous and of equal authority with her constitution itself; and as it professes to provide for the relinquishment on her part of all purpose to "interfere with the primary disposal" of the public domain, and was executed *before* she applied for admission into the Union, it overcomes the main obstacle I have raised to her admission under this bill. This I should concede fully, provided that such instrument does effectually protect the public domain from all danger. Let us, then, look at that

paper. It has been prited by order of the Senate, and I have it here. It purports to be "California's ordinance of relinquishment," &c.

There is a mystery about this paper, and its introduction into the Senate, which I have striven in vain to comprehend. The preamble to it attests its adoption by the California Convention, declaring—

Be it ordained by the Convention assembled to form a constitution for the State of California, on behalf and by authority of the people of the said State, &c.

Now, all such ordinances are invariably, I learn, attested by the signature of the president of the Convention, countersigned by the secretaries, and transmitted with the constitution, to be laid before Congress contemporaneously with it. All this was done in the case of the Michigan ordinance; and the California ordinance is said to have been modelled upon that. But, more strangely still, it did not accompany the California constitution, when it was transmitted by the President to both Houses of Congress; and for no other reason, I take it for granted, but that the President had not received it. Stranger still, the constitution was fully two months before Congress: it had been referred to the Committee on Territories, and that committee had reported a bill to admit California into the Union, and not an intimation was given to the Senate that such an ordinance existed. Though it is evident that the California Convention considered the admission of the State somewhat depended on the efficacy of that instrument, not until a writer of deep and acute sagacity, of profound judgment, and of consummate forecast, (*Randolph of Roanoke*,) had, in the public prints, strongly called the attention of Congress to the necessity there was of exacting such an ordinance prior to the admission of California into the Union, to save the public domain from passing to the State, pointing out the usages which had obtained in the admission of new States heretofore, and whose remarks were soon followed up in the Senate with the striking and forcible observations to the same effect from the Senator from Alabama, (Mr. King,) and from other distinguished Senators, did the Senate come to a knowledge that any such ordinance had been made. Shortly afterwards, the chairman of the Committee on Territories (Mr. Douglas) laid upon the table of the Senate a manuscript paper, (of which the paper before me is a printed copy,) and obtained the Senate's order for printing it. But this paper did not purport to be an *original*. It was neither *dated*, nor *signed*, nor *countersigned;* it was not *certified* to be a *copy* of any valid instrument then in existence. In fine, it had not one proof or trace about it to attest either its authenticity or verity, or that California would be bound by it, should Congress treat it as genuine and valid! Is it not most extraordinary, sir, that we should be permitted to know so very little about a document so important as this, and where such vast interests are at stake? Congress has a right to be informed whether there has been an original ordinance passed and attested in proper form. If there be, where is it? Who brought it to Washington? Who sent it? Who withholds it? Why was it not transmitted to the President with the constitution, and by him to Congress? Sir, we are reasoning in the dark entirely, until we have some assurance about this matter. Is there any Senator here who will avouch the authenticity of the ordinance which I hold in my hand? Will the honorable Senator from Illinois, (Mr. Douglas,) who introduced it into the

Senate, and moved the Senate's order for its printing? I will ask of the Secretary to hand me the *original*, on file with the papers of the Senate.

The VICE PRESIDENT. The Chair is informed that the paper alluded to is in the Secretary's office, and it will presently be brought into the Senate.

Mr. SOULE. While the Secretary is looking for the document, I had better, perhaps, go on with a synopsis of what the printed ordinance provides. It presents the following results:

Article 1st binds this Government to give California four sections in each township in the State for the use of schools.

Article 2d binds the Government to give to California seventy-two sections for the use of a university.

Article 3d binds this Government to give four sections, to be selected *by the State*, for the use of a seat of government.

Article 4th binds this Government to give 1,000,000 of acres, designated *under the direction of the Legislature*, for the purpose of defraying the expenses of the State Government, and for other State purposes; also, 5 per cent. of the net proceeds of the sales of the public lands in the State for the encouragement of learning.

Article 5th binds this Government to give all the salt springs within the State, and all the land reserved for the use of the same.

Let us pause here a moment before noticing the 6th article. It is perceived that, while these five sections bind this Government to make to California all these grants of lands, far exceeding any grant that was ever made to any other new State, not one of them binds California to any thing! Now, without valuing at all (for want of data) the amount arising from the 5 per cent. on the net proceeds, here is a grant of 1,737,280 acres of land, with an absolute authority *to the Legislature of California* to make her own selection of 1,006,560 of the same from any portions of the public domain! How and where these lands would be located by the State, it needs no seer to foretell; and while a very large proportion of the choicest agricultural lands would fall to the State's share, every foot of the gold regions would at once be covered and secured to California, to the perpetual exclusion of the United States and of every State.

Now, I take it for granted that there is not one man in either House of Congress who would sanction by his vote an acceptance of these propositions as they stand in the ordinance. But does not the ordinance confer some authority by which these propositions may be modified so as to secure the acceptance of Congress? No, sir; none whatever! The California Convention has foreclosed and shut out from the action of Congress all modifications of either of them. They are to be accepted or rejected *in toto*, and of course their rejection avoids the whole ordinance. This is obvious from the 6th and last article of the ordinance, which I will proceed to read to the Senate:

ART. 6. The first Senators and Representatives elected to Congress from this State are hereby *authorized and empowered* to make or assent to such *other* propositions as the interest of the State may require; and any such *changes* or *new* propositions, when *approved by the Legislature,* shall be as obligatory as if the assent of this Convention was given thereto. And all stipulations entered into by the Legislature, *in pursuance of the authority herein conferred,* shall be considered articles of compact between the United States and this State; and the Legislature is hereby further *authorized* to *declare*, in behalf of the people of California, if such declaration be proposed by Congress, that they will not *interfere* with the *primary* disposal, under the authority of the United States, of the *vacant* lands within the limits of the State.

It is plain, then, that this section has conferred no authority whatever upon California's Senators and Representatives to make or assent *to any variations* in the propositions contained in the first five sections of the bill, and expressly limits their agency to *other* propositions which they might make or assent to; and hence the acceptance of this ordinance by Congress would not only insure the loss to the people of the other States and the treasury of the Union of the choicest farming lands of the State, but the entire mining region of that county! But there are other strange matters about this ordinance:

It is strange, as the ordinance is said to have been modelled upon that of Michigan, (and it is manifest it was,) that the very clause should have been left out of it which, in the Michigan ordinance, conferred the power to vary the propositions made by that State; for that ordinance provided that "the senators, &c., are authorized and empowered to make or assent to such *other* propositions, or *to such variations of the propositians herein made*," &c.

It is strange, that this ordinance should have been modelled upon that of Michigan, as it must have been known that that of Michigan was *rejected by Congress, even with the foregoing conservative clause contained in it.*

It is strange, that while the ordinance as printed by the Senate omits the clause conferring authority "*to vary the propositions herein made*," the ordinance as found in the printed debates of the California Convention, which I have before me, retains that clause in the words of the Michigan ordinance, but omits the clause touching the power "to make or assent to *other* propositions.

Mr. Douglas. If the Senator from Louisiana attaches any importance to that fact, I will give an explanation of it. I knew nothing of this ordinance till one of the Senators from California called on me and stated that there was an ordinance. I asked why he had not presented it? He answered that the construction they put upon it was, that it was simply for them to make these terms after the State was admitted. I told him I thought it would be well if it was before the Senate, and asked him for a copy. He got a copy, and brought that paper; and, after consultation with the Senator from Kentucky, (Mr. Clay,) I moved to have it printed. That Senator says he obtaiaed it from the official reporter of the debates of the California Convention. If there is any error, it is an error of the reporter in copying.

Mr. Soule. I hope the Senator from Illinois will not understand me as casting the least suspicion upon the gentleman who handed him this ordinance; I know him well; and he is the very last person whom I would suspect of an act in the remotest degree improper or unbecoming. I am sure he has acted in good faith; but this does not remove the difficulty which arises from the inconsistency between the ordinance as printed for the Senate and the ordinance as printed in the book of debates. I was discussing a mere matter of fact, without any reference to individuals connected with it, officially or otherwise. The Senator, I see, has discovered that inconsistency to which I was alluding; and, from what has just fallen from his lips, we are left with no means of ascertaining which be the valid ordinance. The ordinance itself must have been regarded by the honorable Senator as being of some importance, as we find that, after having reported a bill from the Commit-

tee on Territories, he afterwards amends that bill by inserting the clause which I have referred to, and makes specific reserves for the ordinance.

Mr. DOUGLAS. It is true, as the Senator has stated, that the bill as reported contained no clause in regard to the public domain, for the reason that the committee did not then deem such a clause necessary. It will be recollected, at the time that objection was first made to the bill on that account, I offered to prove, by the most indisputable authority, that no such clause was necessary. Subsequently, after the suggestions were made by the Senator from Alabama and others, I stated that I would sooner write down than argue down the objection. Hence I brought in the bill as it is. At the same time one of the Senators from California told me that, at the time the people of California adopted the Constitution, they did adopt the ordinance. I asked him why he did not send it in. He answered that it was a matter for negotiation, after the admission of California as a State. I asked him if he had an authentic copy of the ordinance. He said he had not; but he had a copy, which he gave to me. I presented the paper with the explanation at the time the objection was first made. But I would remark to the Senator from Louisiana, that the action of the Committee on Territories was not upon that document; nor was the action of the Committee of Thirteen upon that subject. The bill must stand or fall upon its own terms, and not upon that ordinance. I am prepared to maintain that, according to well-settled principles of this Government—principles that have been settled over and over again, which the Senator has overlooked—even that clause was not necessary in the bill of the Committee of Thirteen.

Mr. SOULE. I expected that the honorable Senator arose to explain these inconsistencies, and I was listening to him with great attention; but he has not relieved my mind, nor has he, I apprehend, relieved the mind of other Senators, from the anxiety which such a state of things as the one before us must necessarily have created. In answer to an inquiry which I put to him a while ago concerning this ordinance, and asking if the honorable Senator would vouch for its authenticity, he says that the Committee on Territories never acted on the ordinance. Have I intimated anything of the kind? By no means, sir? In the course of my remarks upon the matters connected with the admission of California, finding in my way this very ordinance, I was merely commenting upon the strange appearance it bore, and upon the incongruity of the written document when compared with the printed one; and the honorable Senator thinks, it would seem, that he has sufficiently answered me by stating that it was not acted upon by the committee!

Mr. DOUGLAS. With a slight change of expression, the Senator and myself shall find no difficulty in agreeing. He wants us to give it up. I will say to the Senator, we never urged it, and therefore we cannot give it up. It is he who brings up the ordinance as defeating the bill, and not we. We rely on the bill as it is.

Mr. SOULE. The honorable Senator, I am sure, has not read lately the bill under debate; otherwise, he could not take it amiss that I refer to this ordinance. Will he allow me to refresh his memory by reading to him that part of the third section of *his own* bill, which reads as follows?

Nothing herein contained shall be construed as recognizing or rejecting the propositions tendered by the people of California as articles of compact in the ordinance adopted by the convention which formed the Constitution of that State.

Mr. DOUGLAS. Precisely. I wrote that clause, and my idea was this: that as the matter of the ordinance for setting apart school land and seminary land would arise immediately after California was admitted into the Union, we declared in that part of the bill that nothing should be construed as rejecting or affirming, thus leaving that open an question.

Mr. SOULE. The Senator must feel somewhat inclined to exonerate me from reproach for having thus commented upon an ordinance which he himself had brought into debate, through the reference he made to it in his own bill. But I despair not to satisfy him before I am done that, even for the object which he seems to have had in view, the ordinance in its present shape would not avail him.

I was going to remark, when I was interrupted, that it was strange that while the whole virtue of this ordinance consists in the power it purports to confer upon California's Senators and Representatives to make a compact with Congress touching *other propositions*—such as a reduction of boundaries, relinquishment of title to the public domain, &c., &c.—yet we are, day by day, pressing this bill to a final vote, and not the first movement has been made in the Senate, by friends or foes, evincing either a purpose or a desire to enter into a compact with these gentlemen to secure to the United States either of these very important objects, or any others.

Sir, I would gladly have taken the initiative in such a movement, for the accomplisnment of objects so important to the interest of the whole country, could I have persuaded myself that the powers invested in California's agents by this ordinance were adequate to bind California definitely in such a compact; and I proceed to give the reasons why, in my most deliberate judgment, they were not:

1st. The ordinance devolved upon them functions which constituted them as officers by constitutional intendment, and it may be doubted whether they were eligible to appointments to such high trusts under the Constitution of either California or the United States: certainly they could exercise no other powers, as Senators and Representatives, but those which the Constitution of the latter specially devolved upon them.

2d. The ordinance conferring these powers was passed by a convention invested fully with the whole organic sovereignty of the people of California. Could it, or any of its provisions, be abrogated or modified by any authority less than that which made it? Could the convention have conferred upon others conventional powers? Did it do so? *Delegata potestas non potest delegari!* Why, one of the provisions which a compact entered into by the United States with California's agents might embrace would probably be a reduction of boundaries: a change in them would change the constitution of California.

3d. The convention was constituted for a special purpose—to form a constitution and State government. That being done, its functions were at an end, and it did accordingly adjourn *sine die* on the 13th of October, 1849: from that date it was *functus officio*. Could its powers or functions have survived the adjournment? Not for an hour! Could it delegate those powers and functions to others, so that they could outlive its own political demise and civil death? Most obviously, no.

4th. Certainly that Convention, of itself, could not have performed any act of sovereignty, or any political act whatever, after its final adjournment, and when it had been dissolved into its original elements:

a fortiori, then, it could not have delegated to California's Senators and Representatives *conventional* powers, to be exercised after the Convention had ceased to possess any powers at all; nor could it have devolved *conventional* powers upon the *Legislature* to perform acts of sovereignty which were never conferred upon it by the Constitution. Least of all could the Convention delegate its *conventional* powers, or any portion of them, to its agents, to be exercised at *Washington;* for, if it could, it might delegate the like powers to other agents, to be exercised in *California.* And when you once adopt such a system of substitution, the monstrous absurdity soon grows into the principle that when the people have chosen delegates to a convention, those delegates can appoint others in their places, and, indeed, decline themselves acting at all, and thus leave the people subjected to a system of government imposed upon them by men in whose appointment they had no share.

5th. Admitting that the Convention could have delegated such powers, those which she has actually conferred upon her agents are wholly inadequate to the service for which they purport to have been bestowed. While these mandatories are forbidden to modify the first five sections at all, and while it authorizes and empowers them to *entertain* "other propositions," it *commands* them to nothing. They cannot bind California definitely to any thing beyond an acceptance of the unexampled grants and donations which the first five articles of the ordinance so lavishly bestow upon them! All that they do is inchoate, contingent, and in abeyance until *approved by the Legislature* of California, while all that Congress stipulates is to pass into instantaneous enactment and execution.

6th. The ordinance confers conventional powers upon the California Legislature, which the California constitution scrupulously and entirely withholds.

7th. But the most important and vital defect of the sixth section is yet to be noticed; and I now specially call the attention of Senators to the language in which it is couched. It declares that—

> The *Legislature* is hereby further *authorized* to *declare*, in behalf of the people of California, if such declaration be proposed by Congress, that they *will not interfere with the primary disposal*, under the authority of the United States, of the *vacant* lands within the limits of the State.

Now, let us point out, one by one, the absolute inefficacy of this provision to secure the deep interest of the Union in the vast and unexplored domain embraced within the limits of California.

It excludes California's Senators and Representatives from all agency in making provision for the protection of the public domain: It devolves all the power it confers on the *California Legislature exclusively*, and limits its action to mere *words*, which accomplish nothing, because they bind nobody. It excludes whatever it authorizes the Legislature to do, from the obligation of the compact it suggests between the United States and the State of California. It commands the Legislature in nothing, but merely authorizes it to do *something* in reference to the public domain, and of course leaves to the Legislature a full and untrammelled discretion to do that *something* or to let it alone. What it authorizes the Legislature to declare is a mere opinion, which may vary as Legislatures may change, and will be of equal effect whether favorable or contrary to that which it is intended should be covered by its

sanction. But when you have made the most of this legislative declation, that declaration does not cover an inch of the public domain in California which is already *occupied!* Look at the closing clause of the sixth section of the ordinance: it limits the legislative declaration to the *vacant* lands. Well, with 20,000 agriculturists locating farms, and 100,000 gold-diggers in quest of fortunes in California, how much think you, Mr. President, there is at this day vacant of the choicest and most valuable agricultural and mineral lands of that State?

If this ordinance is to be all our reliance to save the public domain from escheating to the State, it is idle to talk of the people of California not interfering with the primary disposal of it, when the United States will have already effected that primary disposal by admitting California into the Union.

Besides, what know you of the condition of the public domain in California? What know you of the mines? You are in the dark about all this; and yet you are going to surrender your sovereignty over regions unexplored, unstudied, unknown; you divest yourselves of your sovereignty before having ascertained its value, its bearing, its extent; you leave every thing to chance, to future debate and interpretation, shrouded in difficulty and darkness.

And now, should the principle so often and so strenuously advocated here and elsewhere by your government agents in California, by your ministers here—should that principle prevail which makes the law of Mexico paramount over the Territories ceded by the treaty of Guadalupe Hidalgo—what becomes of the vast treasures, the uncounted millions, imbedded in the mining repositories there? The Mexican law opens the mines to all the world, and constitutes the first occupant *owner* of the mine he discovers or works, reserving only to the sovereign the right of levying a duty on the proceeds of the diggings.

By the civil law, all veins and mineral deposites of gold or silver ore belonged, if in public ground, to the sovereign; if in private ground, to the owner—subject, when worked, to a tribute of one-tenth of the produce. Subsequently, it became an established custom, and was so declared by law in most kingdoms, that ALL *such veins* vested in the *Crown.* In Spain, under the laws of the PARTIDAS, the property was held to be so vested in the King that it did not pass with the grant of lands. Afterwards, by a law of Alfonso XI, in the ORDENAMIENTO REAL, all mines were declared to be the property of the Crown, and no one was permitted to work them except under some special license. Juan the First moderated this law, by permitting any person to dig or work mines in his land, or in the land of another with his permission, and to retain one third of the produce, rendering the other two-thirds to the Crown. But Philip II repealed all this legislation, and, by an ordinance to be found in the NEW CODE of laws of Castile respecting the mines, provided that—

In order to benefit and favor our subjects and the natives of these kingdoms, and all other persons whatsoever, though strangers to these kingdoms, who shall work or discover any silver mines whatsoever, discovered or to be discovered, it is our will and command that they shall have them, and that they shall be their own in possession and property, *and that they may deal with them as with anything of their own,* observing, both in regard to what they have to pay us by way of duty, and in all other respects, the regulations and arrangements ordered by this edict, in the manner hereinafter mentioned.—(Gamboa on the Mining Ordinances of Spain.)

The laws of the Indies make a similar grant "to all subjects, whether Indians or Spaniards, and of whatever station, condition, rank, or dignity, (except governors, ministers, alcades, &c.,) authorizing them to work the mines freely and without impediment, and making them *common to all persons*, wheresoever situate, &c.,) *Leyes de Indias*, *title* 19, *book* 4.

From the ample terms of these grants, it is evident that the sovereign divested himself through them of all right of domain over the mining repositories within the possessions which Spain then held in the New World; and such is the decided opinion of *Don Matheo de Lagunes*, judge of the audiency of *Quito*, and of the *Cardinal de Luca*, two eminent jurists of great authority and learning, whose works have cast an effulgent light over these matters, and have rendered them accessible to the bluntest understanding. Now, let me ask honorable Senators, how, under such a legislation, stands the public domain within the borders of California?

Without concluding, Mr. S. here gave way to a motion to postpone the subject until to-morrow.

TUESDAY, JUNE 25, 1850.

Mr. SOULE resumed and concluded as follows:

Mr. PRESIDENT: When, on yesterday, through the indulgence of the Senate, I was permitted to resume my seat, I was commenting upon the legislation of Mexico with respect to the mines. I propose now to resume that subject, and to dispose of it as briefly as it may be in my power to do. But before I proceed in my remarks, I will express my regret that anything which I said on yesterday, with respect to the ordinance enacted by the California Convention, should have been construed as casting the least reproach upon those persons who were in any way connected with the transmission of it to this government. It is with me an object not only of taste, but of scrupulous observance, never to bring names into debate when it can be avoided, and, above all, never to cast the remotest suspicion on any individual when he has not a fair chance of defending himself. I was dealing with facts, and I most sedulously avoided connecting them with any person to whom they bore not an official and undeniable relation. If names were brought forth during the debate, it was not through my agency, but through that of others; and for this I decline all responsibility.

Returning, then, to the question of the mines, the Senate will have perceived that the only right which the United States, as sovereign, and under the stipulations of the treaty of Guadalupe Hidalgo, can set up, and are entitled to set up, and to exercise over the mining regions, is the right reserved by Philip II. when he divested himself of that part of the domain, to wit: the right of levying a duty upon, and of requiring a portion of the proceeds of the diggings; for, nothing can be surer than that these provisions are now, and have been, time out of mind, the settled law in Mexico, as they have been that of all the Spanish American Republics. And as this right is one that belongs essentially to the sovereign, I ask whether, even under any reservation of *the public lands*, the United States could exercise it after transferring their sovereignty to the State of California, without any specific reservation for its protection?

The present gold-diggers will, then, have acquired in the intervening time between the cession to the United States by Mexico of the territory which California embraces within her boundaries, and the time when the clause in this bill extending to them the Constitution and laws of the United States shall go into operation, certain rights—*inchoate* rights, if you please—but rights which should have been disposed of by you in some way or other, while you retain the sovereignty in your hands. What will become of them when your sovereignty has passed away, and you have surrendered the only power that gave you any control over them? It is fit that the Senate should deeply ponder upon the consequences, before hazarding a step which must subject these vast interests to the fate of an irretrievable abandonment.

Having shown on yesterday, (as I think, that the ordinance enacted by the California Convention amounts to nothing,) that the 3d section of the bill under debate affords (nor could through any modifications which could be made in it) no protection whatever for the invaluable public domain of the United States, which will be saved or sacrificed as we shall *decide;* after the most deliberate and anxious reflection, my mind rests under the conviction that it is past the wit of man to devise a plan which will protect this interest from escheating to the State, unless there be a conventional ordinance from California preceding her admission as a sovereign State into the Union. And I think I may satisfy the Senate that California is very much of that opinion, and, what is more ominous still, that she is resolved and intent upon maintaining it the moment the occasion arises to put it to the test. It was under this conviction that I prepared a *substitute* for the three first sections of the bill under debate, which, I think, safely and amply provides not only for all these exigencies, but places Northern and Southern territorial rights upon so fair a basis of public justice and constitutional equality, that its adoption would at once secure not only the peace, but the fraternal harmony of the Union. If there be any plan different from this, in any of its essential features, adequate to the objects we all profess to have in view, I confess I have no reach of mind of power or vigor enough to compass or to grasp it. Be assured, sir, that if it shall be the pleasure of Congress to pass this bill in its present form, we shall have parted with the last opportunity and the only means of securing any one of the great interests at stake; and the only chance that will be left us, if there be a chance—the only hope that remains, if there be a hope—is, that California will voluntarily surrender and relinquish her title to that which the provisions of this bill will make indisputably her own. We may form some estimate of the importance and value of such chances and hopes in turning to a few startling passages which struck my attention while glancing through the volume of debates of the California Convention.—(See Debates, p. 316.)

Mr. McCarver submitted the following resolutions:

Resolved, (as the deliberate opinion of this Convention,) That the public domain within the limits of this State in right and justice belongs to the people of California, and the undisturbed enjoyment thereof ought to be secured to them.

Resolved, That the Legislature of this State, at its first session, be requested to take such steps as it may deem necessary to carry out the object of the foregoing resolution.

Mr. McCarver said: I conceive the object of these resolutions to be of vital importance to the citizens of California, and hope the House will generally unite with me, at least so far as to take the matter into serious consideration. These resolutions refer to the right of the new States

to the public domain within their limits. The question has been before the American people, and has been advocated by the people of the West especially for many years; and the right of the new States to the public domain within their borders has been generally conceded through the United States.

Mr. Botts, following, said: I shall vote against the resolution, &c. As to the principle avowed by the gentleman from Sacramento (Mr. McCarver) that the public lands necessarily belong to the State, I am willing to acknowledge it; but I shall vote against the action of this Convention upon that subject, simply because I think it is a proper object of legislative action. * * * That ground I am ready to take; but I will take it at the polls. * * * I do not object to the principle avowed in the resolutions, &c., but to any action of this House upon the subject.

Now, will the Senate follow me to page 349 of the same volume?

Mr. Stewart, of San Francisco, in alluding to what Mr. Gwin had stated before in these words: "we have the privilege, whenever we become a State, of taking 500,000 acres of land. As a matter of course, we will select the best from the gold mines," &c., says:

I concur entirely with my colleague from San Francisco (Mr. Gwin) in regard to the 500,000 acres of land granted by Congress for the purposes of education.

It is (says Mr. Sherwood in the same page) on the supposition that the 500,000 acres, or a portion of them, may be located in the mining districts, and that from those lands a large revenue may be derived, which properly should go to defray the expenses of the government, that I think this proviso should stand.

By turning to page 471, the Senate will find the reassertion of that right in the State, first claiming absolutely the public domain exclusively, and then, at all events, of locating the lands, claimed by California as a donation, in the mining regions, without a dissenting opinion, so far as I can find.

Mr. Douglas. Will the Senator from Louisiana allow me to ask him whether he asserted that California had passed a resolution that the lands did belong to the State?

Mr. Soule. Not at all. I meant to state, on the contrary, that the resolutions were resisted upon the ground only that it was not a matter for the action of the Convention, but for that of the Legislature, who undoubtedly would exert it. Yet the resolution was referred to the Committee of the Whole without a dissenting voice, and only failed to pass, not because of any reluctance on the part of the Convention to admit the principle which they proclaimed, (for it was generally assented to,) but because of there being *no occasion* for the Convention to act upon them.

And, Mr. President, the keen eye of the Senator from Illinois cannot have failed to perceive in the fact, that the California constitution had to be subjected to the scrutinies of both Houses of Congress, a very adequate reason why the members of the Convention should have forborne to assert in it an absolute claim of title to the public domain within the State, as that must have insured the rejection of the constitution, whenever it should be offered for the acceptance of Congress.

Mr. Foote. Did I understand the honorable Senator from Louisiana as contending that the Legislature of California had the power to do so?

Mr. Soule. Most undoubtedly, unless you secure the public domain by an ordinance of relinquishment precedent to, or contemporaneous with, the admission of California into the Union.

But, Mr. President, if you were disposed to admit California without the requirements which I have alluded to, even then would you be willing to admit her with the limits which she claims in her present consti-

tution? I am most reluctant to believe it; and I proceed to state some of the prominent objections I have to the boundaries she claims in it:

They are *enormous and excessive*, far beyond such as were ever allotted to any of the States which were formed out of Territories belonging to the United States. Tennessee was only allowed, in round numbers, 44,000 square miles; Ohio, 40,000; Louisiana, 46,000; Indiana, 34,000; Missouri, 67,000; Illinois, 55,000; Alabama, 50,000; Maine, 35,000; Mississippi, 47,000; Arkansas, 52,000; Michigan, 56,000; Florida, 59,000; Iowa, 50,000; and Wisconsin, 54,000.

They are *unnatural*, disregarding those geographical divisions which her very structure indicates, and combining together districts disjoined by the eternal barriers of the Creation, and by antagonistical conditions of soil and climate.

They are *impolitic*, placing under the control and sway of a single State territory equal in extent to all New England, with the Empire State of New York added to it; an extent of seacoast exceeding one thousand miles; all the trade of China and of the Indian Archipelago—and laying the foundation for an empire which may hereafter wield in its hands the destinies of this Republic, if it should not endanger its very existence.

But we shall find in the movements that brought about the adjustment of the present boundaries of California, that they by no means originated in any wants of hers, but with the intermeddling of the Administration, and in the arrogant assumption of the authority of Congress to close up the slavery question, through the exclusion of the South from the totality of the Territory, which was the nucleus of the contest at the last two sessions; and that I may give the Senate an insight into the motives which actuated the delegates in the California Convention to assume the boundaries which they claim, I will now lay before it some other passages from the debates of the Convention:

Mr. Semple, (President of the Convention.) I feel under some obligation to repeat a conversation which has a direct bearing upon this matter. There is a distinguished member of Congress, who holds his seat from one of the States of the Union, now in California. With a desire to obtain all the information possible in relation to the state of things on the other side of the mountains, I asked him what was the desire of the people in Congress? I observed to him that it was not the desire of the people of California to take a larger boundary than the Sierra Nevada, and that we would prefer not embracing within our limits this desert waste to the east. His reply was: 'For God's sake, leave us no territory to legislate upon in Congress.' He went on to state then that *the great object in our formation of a State government was to avoid further legislation;* there would be no question as to our admission by adopting this course; and that all subjects of minor importance could afterwards be settled. I think it my duty to impart this information to the Convention. The conversation took place between Mr. Thomas Butler King and myself.—(*Debates,* 184.)

Speaking of this communication, Mr. Shannon says, (*Debates* 191:)

The chief argument which has been urged in favor of the extreme boundary has been, not as to the necessity, not the convenience, not the benefit to be derived from it, nor the necessity of including it, but the probability of its passing the Congress of the United States, and the authority of a gentleman from Congress, that, if such a proposition was adopted, it would pass. Sir, I claim for the dignity of the new State of California, that all dictation of this kind should not receive a very favorable reception in this House; that we should not listen to the propositions of gentlemen in this matter, however high their characters at home, &c. * * * But who are these authorities? Are they men who have become, by long life or service in this country, so deeply interested in the welfare of California that the weal of the new State is alone the dearest object of their aspirations? or are they not rather the agents of interested parties, not of Congress? For they do not speak the will of Congress; a single man cannot speak the will of Congress. And when the President of this Convention stated, this afternoon, the expression of

Mr. Thomas Butler King: 'For God's sake, leave no territory in California to dispute about'—when he (Mr. King) spoke it, I presume he did not speak the sentiment of the entire Congress of the United States. The secret of it is this, that the Cabinet of the United States have found themselves in difficulty upon this question; they are in difficulty about the Wilmot proviso; and Mr. Thomas Butler King (it may be others) is sent here, in the first place, for the purpose of influencing the people of California to establish a State government, and, in the next place, to include the entire Territory. * * * There are two great political parties there, (in Congress,) who have been for years past fighting like tigers in their cage. Every day, every hour, but increases the ferocity with which they struggle upon this question of slavery.

When this proposition comes before them, Southern members—those from the slaveholding States—will see that it strikes from beneath their feet an enormous tract of country into which they desire to introduce slavery hereafter. Add to that the further argument of the enormously extensive territory that it includes; and then add to that the further argument, that a large portion of that territory has not been represented in this body—that the feelings and wishes of the population are not known—and I think you leave open ground enough for them to build an argument upon that will defeat your constitution; that you at least bring all those difficulties which gentlemen hope to avoid directly to bear against it—a result which every gentleman here, I have no doubt, honestly seeks to avoid. These are arguments which you cannot get over. It is true, sir, that the boundary is enormous. No man here wishes to include the whole of it. We are told by these very gentlemen that it is too large; it is unwieldy; it includes an enormous barren tract of country—an immense desert waste; but, say they, *we will bring it all in, not for the purpose of retaining it within the State of California, but for the purpose of settling the slave question at home. We don't intend to keep it.*

Then we have something still more significant from the delegate from San Francisco, (Mr. Gwin,) page 197:

I was opposed to any other boundary but that of California, as recognized by the Governments of the United States and Mexico, for another reason, and I consider it a very important one: that if we leave a portion of territory out, we would necessarily open a question which we here should not interfere with. We all know what 36° 30′ is. It is the great bone of contention. North of that there is no contest; south of it there is a contest. If gentlemen will look where this line strikes the Pacific, they will see that not a solitary vote was cast by a delegate in this Convention south of that line, except those cast *against a State government*. The representatives here from that region are unanimous in their votes against the establishment of a State government. If we include the territory these delegates represent on the coast, why exclude the barren waste beyond, where no white man lives? *We take away the substance and leave the shadow.* Let us take the whole territory, or stop at that line. If we stop at that line, we mutilate the Convention by excluding the members south of it.

Here we have the secret of this extraordinary assumption, on the part of California, of boundaries extending far beyond her actual and necessary jurisdiction.

True it is, that the boundaries adopted by the Convention fell far short of those advised by Mr. King: nevertheless, the Senate will see that they embrace every inch of ground that is worth having.

As Mr. Gwin says:

Why exclude the barren waste beyond, where no white man lives? We take away the substance and leave the shadow

Mr. DOUGLAS. Will the honorable Senator inform us on what page of the report that is to be found?

Mr. SOULE. At page 197. Had the California Convention any right at all to parcel out the country? If yea, why embrace the reluctant opposing districts of Santa Barbara, San Diego, San Louis Obispo, and Los Angeles? If no, why not call into the Convention Deseret, which numbered some 30,000 or 40,000 inhabitants? Had Deseret joined the southern districts, who can say what would have been the result as to the formation of a State government at all, or as to the slavery question?

Nor does the representation of the several districts in the Convention seem to have been very weighty, as far as numbers in the constituent

body were concerned, if we may judge of it from the fact stated by one of the delegates of one of the most populous and most respectable districts of California, (Mr. Botts, from Monterey):

Do you know (says he, p. 193) by what vote of my constituents I sit upon this floor? I will tell you. I received 96 votes; my colleague received some 20 or 30 more; and as for the remainder of my colleagues, I believe they are even worse off than I am. And yet we are called upon to form laws for 30,000 freemen upon the Salt Lake! For my part, I have not the face to do it.

And thus a district representing fully one-tenth portion of the nominal population of all California, and more than one-fourth of its *resident* population, only cast in the election of delegates something less than 150 votes! What the votes were in the other districts we are uninformed.

Strange opinions appear to have been entertained in the California Convention. Its members had certainly conceived that they were vested with most extraordinary powers, that they should have assumed the high tone which characterizes their language when they speak of their relations with the United States. They were to *receive* propositions from Congress. "Negotiations were to be opened between the *high contracting parties!*" They took it for granted that they were under no constraint to limit their boundaries to their own wants, but might rejoice and assist the free-soilers in their efforts to crush and degrade the South, by excluding her from settling in the ceded Territories, and thus despoil her of her equal share in the common property of the Union:

Mr. McCarver. It is the duty of the State of California and the United States, as the two high contracting parties, to fix the boundary, &c. * * It is our duty to refuse to come into the Union, as Iowa did, unless Congress accedes to the boundary which we deem proper to adopt.—(Debates, page 169.)

The secret of all this boldness on the part of the California Convention is to be found at page 179 of the Debates, where Mr. Botts is made to say: "We have got the Congress of the United States in a *tight place.*" * * * "Congress is *bound* to take us—*to admit us, boundary and all.*" * * * "I am therefore now inclined *to lay down the* DICTUM *to Congress—to* PRESCRIBE *to them even this question of boundary*—to make it the *sine qua non* of our admission."

Such were the views that operated on many, if not on most, of the delegates composing that convention. The slavery issue was to be taken from Congress, and devolved upon them! California would settle it, and settle it readily, by taking all from the South, and giving it to the North. Why, the North could have done that long ago, had she ventured, and had she dared. She had the power; but, in her praise let me add, she was void of the rashness, and void of the injustice to exert it. But the convention was with plenary powers, and was willing so to exert them that *no territory should be left for Congress to legislate upon.* California might take it easily: for she had Congress in a *tight place*, and ready to surrender at discretion. And when all this is taken into consideration, will any one wonder that California should have appropriated to herself those limits which give her, in the language of Mr. Shannon, (p. 192,) "*a shape most awkward and ungainly.*"

But they had resolved upon taking the *substance* and leaving the *shadow.* Are you, Senators, prepared to receive her into the Union, unshorn of an atom of her monster dimensions?—With 153,000 square

miles of jurisdiction, and with 1,000 miles of coast?—With the command of every outlet through which the vast territory that stretches eastward to the western slope of the Rocky Mountains might disgorge its products and enlarge its trade by a free access to the Pacific? Will you thus disturb the natural demarcations which so peculiarly characterize and divide the different portions of that country—not because it is right in itself, or just to the South, or best for California, but to remove the frantic cravings of a rapacious and intolerant free-soilism?

Sir, Nature has drawn with her own hands the limits which California should have as a State, by uniting in a common centre the valleys of the Sacramento and the San Joaquin. They discharge their main waters into the same basin, and that basin is the only outlet that connects them with the Pacific; and although they may differ somewhat in climate and fertility, yet they were clearly intended to form a single, inseparable whole.

The imposing and almost impassable Sierra Nevada encircles them as within a belt of rude granite—divides the maritime region from the Great Basin, (Utah,) which it closes on the west; while the two valleys, by the innumerable streams and rivers which run from the south and the north, and converge to the bay of San Francisco, are bound and knit together:

The Sierra Nevada (says Mr. McDougal, page 180,) presents to my mind a most proper and feasible line for our State. Following the crest of that line from the north to the south, taking the waters as they flow, all that portion of country where the waters commence to flow to the west is what my proposition includes, and that gives us an area of country double as large as any other State in the Union. If you cast your eyes on the map, you will see three distinct divisions marked by Nature in the Territory of California, &c.

Here is that map, and Senators may see, strikingly delineated upon it, the three divisions alluded by Mr. McDougal—Utah; the Maritime Region embraced by the Sierra, and the Territory to the south, between the lines described in my substitute. And this opinion of the delegate from Sacramento is fully sustained by the highest authority which I can summon before the Senate—that of the learned, enterprising, and indefatigable officer to whose labors the United States and the world are so much indebted:

The valleys (says Col. Fremont, speaking of the valleys of the Sacramento and the San Joaquin) are one, discriminated only by the names of the rivers that traverse it. It is a single valley—a single geographical formation, near five hundred miles long—lying at the western base of the Sierra Nevada, and between it and the coast-range of mountains, and stretching across the head of the bay of San Francisco, with which a delta of twenty five miles connects it. The two rivers—San Joaquin and Sacramento—rise at opposite ends of this long valley; receive numerous streams, many of them bold rivers, from the Sierra Nevada; become themselves navigable rivers; flow towards each other; meet half-way, and enter the bay of San Francisco together, in the region of tide-water, making a continuous water line from one end to the other.—(Fremont's Memoir, p. 15.

The Sierra Nevada is an unmistakable boundary to these two valleys, leaving no natural outlet from them to the Pacific but through the *Golden Gate*, which unites the bay with the ocean. It closes the valleys on the northern side by a promontory, several thousand feet above the level of the sea, and to the south, by a gentle slope and neck that connects it with the Santa Barbara mountains, which carry the limit to the water's edge of the sea; and thus are the boundaries of the new State drawn by the hand of God in bold and indestructible characters.

But, independent of this great feature, which marks so peculiarly the geographical structure of the two valleys thus held embraced by the great Sierra, Nature has set another seal on its necessary separation from the country lying south of them. The climate is no longer the same. The soil is different, and the products altogether dissimilar. Here begins quite a new country :

South of Point Conception (says Fremont, page 38) the climate and the general appearance of the country exhibit a marked change. The coast from that cape tends almost directly east; the face of the country has a more southern exposure, and is sheltered by ranges of low mountains from the violence and chilling effect of the northwest winds. Hence the climate is still more mild and genial, fostering a richer variety of productions, differing in kind from those of the northern coast. * * * The soil is generally good, of a sandy or light character, easily cultivated, and in many places of extraordinary fertility.

Thus the limits which California assumes in her constitution, connect what Nature had intended should remain separate and distinct. They embrace countries that bear no relation to each other. The two great valleys formed by the San Joaquin and Sacramento rivers, with the plains that stretch along between the lower ranges of mountains on the coast, constitute the natural and most appropriate appurtenances of the new State, and embrace an area of territory sufficient to maintain millions of inhabitants, being something less than 100,000 square miles. I quote again from Fremont, pages 13 and 14 :

West of the Sierra Nevada, and between that mountain and the sea, is the second grand division of California, and the only part to which the name applies in the current language of the country. It is the occupied and inhabited part; and so different in character, so divided by the mountain wall of the Sierra from the great basin above, as to constitute a region of itself, with a structure and configuration, a soil, climate, and productions of its own; and as northern Persia may be referred to as some type of the former, so may Italy be referred to as some point of comparison with the latter. * * * Looking westward from the summit of the Sierra, the main feature presented is the long, low, broad valley of the San Joaquin and Sacramento rivers—the two valleys forming one, five hundred miles long and fifty miles broad, lying along the base of the Sierra, and bounded on the west by the low coast range of mountains which separates it from the sea

California, below the Sierra Nevada, is about the extent of Italy from the Alps to the termination of the peninsula. It is of the same length, about the same breadth, consequently the same area—about one hundred thousand square miles—and presents much similarity of climate and production. Like Italy, it is a country of mountains and valleys. Different from it in its internal structure, it is formed for UNITY—its large rivers being concentric, and its large valleys appurtenant to the great central bay of San Francisco, within the area of whose waters the dominating power must be found.—(Ibid. p. 43.)

And now let us follow the map, and see what new region expands beyond the southern termination of the Sierra Nevada.

The country south of Point Conception is utterly cut from the valleys of the San Joaqdin and Sacramento rivers, and can only communicate with them, to any extent, by the Pacific. I have already noticed its climate, its productions; let me add a few remarks from Mr. Fremont. He traces the southern division from Point Conception to the Gulf of California, and speaking of it, says:

The productions of the South differ from those of the North, and of the Middle. Grapes, olives, Indian corn, have been its staples, with many assimilated grains. Tobacco has bean introduced there; and the uniform summer heat which follows the wet season, and is uninterrupted by rain, would make the southern country well adapted to cotton.

And we are reminded by the same authority (same page) that—

Vancouver found in 1792, at the Mission of Buena Ventura (latitude 3s deg. 16 min.) apples, pears, plums, figs, oranges, grapes, peaches, and pomegranates growing together with the plantain, banana, cocoa-nut, sugar-cane, and indigo, all yielding fruit in abundance, and of excellent quality.

Why, then, I ask, connect, by artificial limits, this country with the valleys above? Why block up the vast plains behind from all communication with the Pacific? Why put the eastern and southern basins out of reach of all navigable streams? Why cut them off from all outlet for their produce? Are we prepared to doom them forever to utter insignificance and dependence—to separate them from the rest of the world? No, no!

Mr. Sherwood, from New York. As to what ought to be our future boundary, I concur fully with several gentlemen who have expressed the opinion that the crest of the Sierra Nevada, or some line of longitude near it, should be the future permanent boundary of this State; and if that were the only question before the House, I should, without hesitation, vote for the proposition which embraces these limits. But there are other questions which ought to influence our action. * * * * * * And now, by taking in the whole of California to the New Mexico line, we can throw that question out of Congress, and keep it from discussion before the people, and thus remove the bone of contention between the North and the South. We should then do an act which may render certain that the Union cannot be dissolved. We are not aware of all the feelings that control the people of the Eastern States.—(Debates, p. 180.)

And the delegate from San Francisco, (Mr. Gwin,) alluding to the *same* subject, (Debates, 196,) uses the following startling language:

I have not the remotest idea that the Congress of the United States would give us this great extent of boundary if it was expected it would remain one State; and when gentlemen say that they will never give up an inch of the Pacific coast, they say what they cannot carry out. So far as I am concerned, I should like to see six States fronting on the Pacific in California.

Is it strange, then, that the South should revolt at the idea of letting California come into the Union, with limits that were avowedly fixed with a view to strip her of every inch of soil in the newly-acquired Territories, and to prepare the utter annihilation of her influence in the government by the forthcoming adjunction of six new free States, and of course of twelve additional free State Senators? See, Mr. President, what they themselves think of it?

Mr. Hastings, from Ohio. But gentlemen maintain that it is very important to include the whole territory, if possible, because if we settle the question of slavery now for the entire territory, it will be forever settled. * * * * * I can assure you, gentlemen, that the new State of California will not be permitted to settle the great question of slavery, &c. * * * Will the South permit it? No, sir. It will be insisted by the South that we have been urged to do so by influences brought to bear upon us from the North, &c.—(Debates, p. 173.)

The same. We have a very low estimate of the sagacity of the South if we suppose they will overlook this point. They will naturally say: You, a few Californians on the other side of the continent, assume to settle the great question of slavery for a tract of territory which must ultimately constitute thirteen or fourteen States of the Union!—(Debates, p. 177.)

Mr. McCarver. But do gentlemen suppose that the South would acquiesce in this arrangement, that they will permit us to settle the question of slavery?—(Debates, same page.)

The same. Do gentlemen suppose that Congress would have suffered Louisiana to settle that question of slavery for the whole territory known as Louisiana? Equally idle is the assumption that Congress will stand by, and allow a handfull of citizens in California to settle the slave question. It is a monstrous doctrine.—(Debates, p. 187.)

But they never expected that you would be brought to assent to such pretensions. Mr. Gwin expressed himself as follows:

We know that Congress has the right to settle our boundary, and the boundaries of all new States It is a right which they will insist upon, and which they have always refused to surrender. And hence I have thought that if we make the boundary of the Sierra Nevada to run to the mouth of the Gila, Congress might say to us, You have included too much for one State; we will limit you to the territory in which your population resides; we will cut off all south of 36 deg. 30 min. South of that must be a territorial government. * * * * That will be the great battle-field. I confess I would greatly prefer a more restricted boundary. We have the natural boundary to make a greater State than any in the Union—the bay of San Francisco and its tributaries. IF WE HAD OUR CHOICE, we would thus shape our boundaries.—(Debates, p. 445.)

Will you, then, let me repeat it again, admit California as she presents herself to you? We are told that she has already a population exceeding 150,000 of able-bodied men, capable to array in battle 75,000 of stout and hardy soldiers—of such soldiers as would command the choice of the Senator from Illinois (Mr. SHIELDS) in a great emergency. What, when she shall have a population of 500,000—of 1,000,000—of 2,000,000, and 3,000,000? How monstrous her importance, if she should remain in the Union! How gigantic her power, if at any time she should choose to go out of it! Cast your eyes a little ahead of you. Before them, the commerce and the luxuriant temptations of Hindostan, of China, Japan; behind them the almost boundless empire, stretching from the Straits of Fuca to the Gulf of Mexico, from the Pacific to the Rocky Mountains! Are you prepared thus to lay the foundation of a state of things that may and must eventually, either enable the new State to wield in her hands the destinies of the republic by the weight of numbers, which ere long she will cast in your national councils, or entice her to set out for herself with the bright prospects which the future holds out to her?

We are laying the foundation for a great empire, (says Mr. HALLECK from New York, page 434.) Let it be broad and deep. Let us be governed by no narrow or short-sighted policy. We are not legislating for a single day, or for a single generation, but for ages and generations yet in the womb of time. The position of California is unprecedented in history. She is already attracting the attention of the world. There is no spot on this continent which excites at the present time so much interest and concern. Men of intelligence from the old and the new States, and from the commercial cities of South America and Europe, are already rushing in large bodies to this land of promise. Every avenue of approach is crowded to excess; every vessel that reaches our ports is crowded to overflowing. This new population will form a State of high public spirit and of daring enterprise. No other portion of the globe will exercise a greater influence upon the civilization and commerce of the world, &c. We should therefore be careful, in laying the foundation of THE NEW EMPIRE, not to contract within too narrow limits the circle of its action, nor necessarily circumscribe the sphere of its usefulness.

But, while we suffer our attention to be thus engrossed by the claims which California pleads at our bar, we lose sight of Deseret entirely. What of her? She also has sent here her Constitution, and pleads for admission into the Union. Is she to be held as an independent community? Then she has her inherent rights as well as California proper. She is the oldest in date before us, and in her State organization. Her constitution extends her limits to the crest of the Sierra Nevada, and down the Sierra to the Santa Barbara mountains; thence along the Pacific to the Gulf of California, embracing the whole of the southern coast. Can you cut her short of those limits to sanction the posterior usurpation of California? Deseret acted in her right, if California did, when framing her constitution; and her boundaries, having been asserted long prior to California, (by seven months.) ought to prevail. If Deseret must be considered as being in subjection to California, why was she not summoned to the Monterey Convention?

But (says the delegate from San Franciso, Mr. Gwin) have they any right to complain? Are we not the majority? Does any one pretend to say, in this house or elsewhere, that the districts of California, established under proclamation of the Governor, do not contain a population that is not represented here? Have not thousands reached the country since we were elected? As a minority, were they not bound to submit to the majority? Sir, are we not here forcing a State government upon a portion of the people of California, whose delegates have, by their recorded votes, stated the fact that their constituents are unanimously against a State government, and in favor of a territorial organization? * * * Gentlemen affect to believe, that in taking a large extent of territory not represented here, and from which no opposition to our action has been

made known to us, we are doing a great act of injustice to those people; when, at the same time, we have here before us the direct protest against a State government of a portion of the inhabitants of this Territory who are represented. But do we stop? Do we refrain from committing this act of injustice? No, sir; we go on, and include them.

Then, Mr. President, *might* is to supercede *right*. If not, why join the four protesting to the northwestern districts, and force them into submission to the State government organized by the Convention? Why take from them the right to provide for themselves that form of government which best suits them? They are Californians also; and most of them the Californians for whom provision was intended to be made, and protection was secured, in the treaty that transferred them to us; and the first act of the conqueror is to bring them, by a feat of political legerdemain, within the pale and under the authority of a government to which they were unanimously opposed!

The whole matter of the boundary, then, was cunningly devised to be merely *nominal*, purposely *unreal*, and thoroughly *deceptive*. It was to be *effective* and *irreversible* for a single object—TO EXCLUDE THE SOUTH FOREVER FROM ALL SHARE IN THE TERRITORIES, THROUGH SPOLIATIONS OF HER RIGHTS AND A DEGRADATION OF HER SOVEREIGNTY, WITHOUT AN ALTERNATIVE THAT DOES NOT END IN AN INGLORIOUS SUBMISSION OR A RUPTURE OF THE UNION!

I am now drawing rapidly to a close; and I promise the Senate that I shall do my best to shorten as much as possible the remaining remarks which I intend submitting to its consideration, for I feel I have trespassed already too long upon its patience.

My substitute proposes to restrict the limits of California to the 36th deg. 30 min. parallel of north latitude.

The original line of the Missouri compromise, Mr. President, came not at the South's instance, nor was it adopted through the South's choice. Her assent to it was constrained; it was the only alternative left her between the spoliation and abandonment of her equal rights north of 36 deg. 30 min., and the dismemberment of the Union; and to save the one she sacrificed the other, and was thus despoiled of three-fourths of the slaveholding territory of Louisiana. With the North the case was altogether different. She deemed it her interest to partition the territory by an east and west line, and in such a way that while southerners were excluded from migration and settlement north of the line, northerners were left free to migrate and settle on both sides of it, as they were before. Through the power of numbers, she established this principle of territorial partitions, and with the privilege of choice she fixed on the degree of latitude where the line should run.

This was in 1820. Precisely one-fourth of a century thereafter (1845) Texas, with her immense territory, was before Congress for admission into the Union. The North insisted that the line of the Missouri compromise should be applied to her territory. It was in vain to tell her that not a foot of this territory was the property of the United States, but belonged exclusively to the State of Texas. She replied that the *principle* of territorial partitions between the North and the South upon the line of 36 deg. 30 min., had been finally settled by the compromise of 1820, had been adhered to for one-fourth of a century, and was now as binding as the Constitution itself. She was inexorable: the South yielded again, and the Missouri line was stretched through the State of Texas.

Scarcely three years had elapsed before the question of the Missouri compromise was again mooted in Congress. It came up on the Oregon territorial bill. All of Oregon south of the Columbia river had been acquired under the Louisiana treaty of 1803, and of course was included in the Missouri compromise of 1820. But all of Oregon north of that river was acquired under the Florida treaty of 1819, which was not ratified until 1821. Well, the North claimed all of Oregon as free territory by force of the compromise, and the South recognised her right to it upon the basis of that adjustment.

The very last instance in which the question arose between the free and the slave States occurred in the act of acquiring California and New Mexico, some two years ago; and that was the first and the only instance, after twenty-eight years of steadfast adherence to the principle of territorial partitions, in which the free States betrayed the wish to depart from and repudiate that principle.

The circumstance occurred in this Senate convened in Executive session to deliberate upon the ratification of the treaty of Guadalupe Hidalgo. On that occasion, the Senator from Connecticut (Mr. BALDWIN) called upon the free States to disavow and repudiate the line of the Missouri compromise, by offering an amendment extending the Wilmot proviso over every acre of the Territories proposed to be ceded by the treaty. The ground which the Southern Senators took upon that amendment was this: If you abandon the line of the Missouri compromise, and adopt this amendment, we will at once bring the treaty to a vote and *reject it*—leaving you without an inch of domain upon which to inflict so flagrant an injustice upon the rights of the South! And as there were thirty Southern Senators in a Senate of sixty, and it would have required forty affirmative votes (two-thirds) to ratify, and twenty-one negative votes would have been sufficient to reject it, even in a full Senate, it was plain enough that the Southern Senators had it in their power to make good what they said they would do in such a conjuncture. The amendment was therefore voted down by a decided majority, and the treaty was adopted without it. Sir, without a word in the South's praise, it may be said, and no Senator here will deny it, that without the South's *military* share in the war, without her *monetary* share in expenses, and, above all, without her *votes* for the ratification of the treaty, we should not now have had a single acre of Territory to wrangle about. Not an inch of it could you have had, but by repudiating the Wilmot proviso, and through the implication that the line of the Missouri compromise would be maintained and applied to the new Territories. And was it so applied? It was not: for had it been, the new Territories would have received the ordinary organization long ago, and the country have been spared the fearful controversy which now disturbs and alarms it.

The very provisions of the present bill applicable to Utah and New Mexico, (as amended by the Senate,) had they been applied to California at the last session of Congress, would have been accepted by the South. Stretch the line of the Missouri compromise through all of them now, and to the Pacific, the South will still be content. As much as this sacrifices of what she has just claims to, as little as it secures of what is really her own, yet such is her love of union and peace that she will gladly shake hands with you upon that line, and be friends.

Some there are who seem to think that matters are materially changed from what they were at the last session of Congress, because California has since then met in convention, and formed a State constitution and government; and it would seem that, in their opinion at least, Congress could not stretch the line of the Missouri compromise across her *State* boundaries—as if Congress, since the last session, had parted with any power over California which it had before. Why, the powers of Congress over her boundaries are still the same, and doubtless supreme. There is not an instance where Congress parted with them, until it admitted a new State into the Union: it has exercised them in every instance of admission of a new State, and the very bill under debate is an authority and a voucher for what I am now contending for.

The Senate overlooks entirely that the State of Deseret (Utah) presented herself, some two months before California, with a regular State constitution, at the bar of the Senate, and with a memorial to Congress asking her admission into the Union! Deseret had a larger *permanent* population than California at the time they respectively formed their constitutions; for it was unanimously conceded in the California Convention, that she had from 30,000 to 40,000 inhabitants; and, what is most remarkable, her constitution was *unanimously* adopted, while that of California hardly reached 13,000!

Another astounding circumstance is, that California stretched her boundary line across the heart of Deseret, and appropriated to herself fully 70,000 square miles of that State.

The application of Deseret is still pending before the Senate; it has not been acted upon—still less has it been rejected: and yet here is the committee's bill, cutting off from Deseret these 70,000 square miles, and extending California's boundaries over it.

Let it never more be said, then, that Congress does not at this moment possess all the powers and rights over the boundaries of California that it ever did or does now possess over those of Utah and New Mexico.

It is obvious that there is not an obstacle in the way of Congress running the line of the Missouri Compromise through California to the Pacific, but its own WILL.

The North knows it. The South knows it; and she expects that it will be conceded to her, and will insist upon it, and accept of no adjustment that will fall short of it. There is not a journal of either party, nor have I seen a Southern man who, in yielding to the one or the other of the two plans presented to Congress—the one by the Executive, the other by the Committee of Thirteen—has not declared of either that it was not what it should be; that the North got *all* and gave *nothing* There is scarcely one journal that does not avow its preference to the Missouri Compromise over all others. Some of them add, it is true, "we can't get it;" which I must think would be far more appropriate if coming from those who do not *want* it, or, having the power, *won't* yield it. But, sir, evidences that the universal South favors the line of the Missouri Compromise above all other plans have been amply displayed within the very walls of the Capitol; and here, sir, in the Senate, when that distinctive measure shall come to a final vote, I shall be both surprised and concerned if the Southern Senators shall not attest

their sense of what their respective States desire *most*, by casting something like a unanimous vote in its favor.

Congress possesses all the power over the boundaries of California *now*, that it possessed at the last session of Congress, and has exactly the same right to extend the line of the Missouri Compromise through it that it had *then*.

It follows from this, that it is entirely at its option whether the *Wilmot Proviso* shall be established in California south of 36° 30′ or not. It is not *established* yet; it cannot be established unless Congress says *it shall*. And, Mr. President, do not expect that the South can be so easily deluded. She knows—she will know—that if Congress limits California by 36° 30′, it will have refused to establish the *Wilmot Proviso;* if it does not, and admits her into the Union as she is, *Congress* WILL HAVE ESTABLISHED IT.

Will not the admission of California, then, be identically, in substance and in fact, the establishment of the Wilmot Proviso south of 36° 30′ BY CONGRESS? There cannot be a doubt of it. Well, sir, the mere menace of doing so heretofore threw the entire South into a flame, and united all hearts in resistance. Is it hoped that the consummation of that odious measure, through the virtue of this bill, will not unite them again, and kindle the flame that will blaze up fiercer than ever?

Have our brethren of the free States sufficiently pondered upon the consequences of putting the South to the wall, and forcing upon her the adoption of desperate measures? Will they shut their eyes on the clouds that rise on the horizon? Will they brave the dangers that surround us when they can avert them forever by adhering faithfully to a Compromise which they themselves contrived against and imposed upon the South, and when the South is willing to abide by it? Sir, is the permanency of this Republic of so little value to them that they will not secure it at such a price? Methinks I can read the characters which a mysterious hand is writing upon these walls!

Yet, sir, bad as I think this measure, disastrous as will be the consequence, and strenuously as I may struggle against it while it is open to debate, my opposition to it will end here. I may think no less of the wrong it occasions, the injury it inflicts, the oppression it menaces, and the dismemberment that awaits it; but whenever that controversy passes beyond this chamber, and reaches the point of collision and rupture, a deep sense of all I owe my adopted country will bid me abstain from it, and leave its fate to its native sons and to that all-wise Providence that holds in its hands the destinies of nations. Until the State that made me whatever I am summons me to other duties and other resolves, I shall abide by the Union. I shall neither forget nor disown how much I owe her, and how mighty are her claims on me! Mr. President, I can hardly suppress, and yet I feel quite unable to give utterance to, the emotions which those claims awaken in my heart. Only think of one who, in early life, for some humble strivings for liberty in his native land, brought down upon him the monarch's frown, and had to quit country, family, friends—everything that is dear and sacred to the human heart. To this, the land of the free—sanctified by the virtues and patriotism of a Washington, a Franklin, a Jefferson—he directed his steps. He came and found freedom and welcome. Poor, he

was cared for; friendless he was befriended; patronage seconded his efforts; success crowned his toils; and, rewarded and honored far above his merits, lo! the exile finds himself in the midst of the sages of the Republic—an associate with patriots in a Senate of equals! Ah! believe you, sir, that I could ever tear out of my heart such a remembrance as this?—that I could lift arm of mine in such a strife? May it perish sooner! But, sir, and you, Senators, allow me a last warning: JUSTICE to the South, if you wish PERPETUITY TO THE UNION! Whoever advises you to the contrary can only be inspired by that king of spirits

"Whose throne is darkness in the abyss of light."